REMARKS

In the Office Action of December 23, 2010, claims 1-6, 9, 10, 12-24, 27, 28 and 30-43 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 5,768,607 ("Drews et al.") in view of U.S. Patent No. 5,642,171 ("Baumgartner et al.") and U.S. Patent No. 6,099,317 ("Bullwinkel et al.").

In response, Applicant respectfully asserts that the independent claims 1, 10, 19, 28, 37 and 39 are not obvious over Drews et al. in view of Baumgartner et al. and Bullwinkel et al., as explained below. In view of the following remarks, Applicant respectfully requests the allowance of the pending claims 1-6, 9, 10, 12-24, 27, 28 and 30-43.

A. Patentability of Independent Claims 1, 10, 19, 28, 37 and 39

The Office Action has rejected independent claim 1 under 35 U.S.C. 103(a) as allegedly being obvious over Drews et al. in view of Baumgartner et al. and Bullwinkel et al. However, the Office Action has failed to establish a *prima facie* case of obviousness for independent claim 1 because one of ordinary skill in the art would not combine the teachings of Drews et al. and Baumgartner et al. As such, Applicant respectfully requests that independent claim 1 be allowed.

The Office Action on page 3 correctly states that Drews et al. does not teach the limitations of "*selectively pausing said subsequent replay of said accompanying audio if a difference between said synchronization point and said time value exceeds a predefined amount so that said subsequent replay of said operations can catch up to said accompanying audio; and resuming said subsequent replay of said accompanying audio if a difference between said synchronization point and a current time value does not exceed a second predefined amount, said current time value being associated with said another processing of said recorded user inputs*," as recited in the independent claim 1. The Office Action then states that Baumgartner et al. teaches these limitations of claim 1

and that "[i]t would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Drews and Baumgartner for the purpose of synchronizing audio and video (i.e., recorded user input) on slower computer hardware." However, one of ordinary skill in the art would not combine the teachings of Drews et al. and Baumgartner et al. because the teachings of Baumgartner et al. is not applicable to the method and apparatus of Drew et al. Thus, Applicant respectfully asserts that the Office Action has failed to establish a *prima facie* case of obviousness for independent claim 1.

Drews et al. describes a method and apparatus that creates and plays objects (e.g., annotation objects that includes draw data) and sound synchronously, as explained in the abstract. As explained in the paragraph beginning at line 33 in column 11, which is copied below, replaying annotation objects involves replaying the recorded sound and drawing the objects in the way they were drawn when the annotation was created. Thus, replay of annotation objects does not involve replaying of a video.

> "Second, the annotation objects of the present invention can be replayed as a 'dynamic image' synchronized with the recorded sound. The present invention can support a 'play' verb so that the container application can replay the annotation object as a dynamic image. This 'play' verb will be accessible from the container application. When the 'play' verb is invoked, the present invention replays the recorded sound and draws the objects synchronized with the sound in the way they were drawn when the annotation was created" (emphasis added).

The fact that Drews et al. does not use a video is further supported in the paragraph beginning at line 29 in column 13, which is copied below. As explained in this paragraph, the draw data is a cursor-movement-and-action data, which contains information of all the cursor movements and cursor actions including button-up and button-down events. Presumably, the draw data is used draw the objects during replay. Thus, a video is not played during the replay.

> "The present invention inserts sequence marks into the sound stream data being recorded and the cursor-movement-and-action data (or the draw data) so that the sound and draw data can be synchronized with each other when they are replayed. The draw data contains information of all the cursor movements and cursor actions including button-up and button-down events." (emphasis added).

In contrast, as correctly stated on pages 3 and 4 of the Office Action, Baumgartner et al. teaches a method of synchronizing audio and video streams in a computer environment. However, as explained above, the method and apparatus described in Drews et al. does not use videos during replay of the annotations. Since videos are not used in Drews et al., one of ordinary skill in the art would not apply the teachings of Baumgartner et al. to the method and apparatus described in Drews et al. For example, as explained in the two paragraphs beginning at line 1 in column 12 of Baumgartner et al., which are copied below, the synchronization method of Baumgartner et al. uses video frame position data for the synchronization.

"The synchronization method of the present invention is performed by synchronization module block 421. The synchronization module 421 comprises a method that is preferably implemented in software, and a source code listing of one embodiment of this method is located at the end of this specification. As noted above, the source code listing at the end of this specification operates by interfacing directly to the API of the audio and video drivers rather than going through the MCI interface layer. Otherwise the source code listing is similar to the preferred method. The MCI digital driver 311 provides a signal to the synchronization module 421 over path 417. The computer system includes a timer which periodically interrupts the MCI layer 309 and MCI driver 311 and directs the MCI layer 309 to invoke the synchronization module 421 of the present invention. When the synchronization module 421 is invoked, the synchronization method queries the audio and video drivers 331 and 341 for the current position of the audio and video data. The synchronization module 421 is shown connected to the AVK video driver 341 and the audio driver 331. As noted above, the synchronization module 421 of the preferred embodiment of the invention interfaces to the AVK video driver 341 and the audio driver 331 through the MCI interface layer. In contrast, the source code listing at the end of this specification implements an embodiment that accesses the AVK video driver 341 and audio driver 331 directly via the API of the respective drivers" (emphasis added).

"The audio driver 331 provides audio position information to the synchronization module 421 over path 429. The AVK video driver 341 provides video frame position data over signal path 423 to the synchronization module 421. The synchronization module 421 uses the audio and video frame rate information to compute a video tempo value that is provided to the AVK video driver 341. Video tempo and pause commands are conveyed from the synchronization module to the AVK 341 over signal path 425, preferably routed through the MCI layer 309 as discussed above. Also, in the preferred embodiment, the synchronization module 421 provides a pause command to the audio driver 331. In an alternate embodiment, the present invention maintains synchronization by adjusting the audio tempo, and the synchronization module 421 generates an audio playback tempo command that is conveyed to the audio driver 331 over signal path 427" (emphasis added).

Since the method and apparatus described in Drews et al. does not use videos, and thus, there are no "video frame position data," the synchronization method described in Baumgartner et al. cannot be used in the method and apparatus described in Drews et al. Furthermore, since the method and apparatus described in Drews et al. does not use videos, there is no reasonable expectation of success in combining the teachings of Drews et al. and Baumgartner et al. Thus, one of ordinary skill in the art would not apply the teachings of Baumgartner et al. to the method and apparatus of Drews et al. Therefore, it is not obvious to combine the teachings of Drews et al. and Baumgartner et al. to arrive at the claimed invention as recited in the independent claim 1.

Applicant notes herein that the motivation provided in the Office Action on page 4 to combine the teachings of teachings of Drews et al. and Baumgartner et al. is "for the purpose of synchronizing audio and video." However, as explained above, the method and apparatus described in Drews et al. does not use videos. Thus, this motivation is not a valid motivation to combine the teachings of Drews et al. and Baumgartner et al., which further supports the conclusion that the independent claim 1 is not obvious over Drews et al. in view of Baumgartner et al.

For at least the reasons stated above, Applicant respectfully asserts that independent claim 1 is not obvious over Drews et al. in view of Baumgartner et al. and Bullwinkel et al. As such, Applicant respectfully requests that independent claim 1 be allowed.

Independent claims 10, 19, 28, 37 and 39, which include similar limitations to independent claim 1, were also rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Drews et al. in view of Baumgartner et al. and Bullwinkel et al. Although the language of claims 10, 19, 28, 37 and 39 differs from the language of claim 1 and the scope of claims 10, 19, 28, 37 and 39 should be interpreted independently of claim 1, Applicant respectfully asserts that the remarks provided above in regard to claim 1 apply also to claims 10, 19, 28, 37 and 39. Thus, the Office Action has also failed to establish a *prima facie* case of obviousness for claims 10, 19, 28, 37 and 39. As such,

Applicant respectfully requests that independent claims 10, 19, 28, 37 and 39 be allowed as well.

II. Patentability of Dependent Claims 2-6, 9, 12-18, 20-24, 27, 30-36, 38 and 40-43

Each of dependent claims 2-6, 9, 12-18, 20-24, 27, 30-36, 38 and 40-43 depends on one of independent claims 1, 10, 19, 28, 37 and 39. As such, these dependent claims include all the limitations of their respective base claims. Therefore, Applicant submits that these dependent claims are allowable for at least the same reasons as their respective base claims.

Applicant respectfully requests reconsideration of the claims in view of the claim amendments and the remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,

Denny Jaeger

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By: /thomas h. ham/

Thomas H. Ham
Registration No. 43,654
Telephone: (925) 249-1300